

13 5/4/2009  
14 APPEARANCES  
15 For Plaintiff: Susan Roe & Ron Friedman  
16 For Defendant: Jeffery Robinson & Colette Tvedt

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1 (Proceedings of 5/4/2009)

2 THE COURT: Okay, this is case number CR 06-466,  
3 United States v. David Ronald Mendoza.

4 Appearances, please, Ms. Roe?

5 MS. ROE: Good afternoon, Your Honor, Susan Roe  
6 and Ron Friedman here on behalf of the United States.

7 THE COURT: And Mr. Robinson?

8 MR. ROBINSON: Good afternoon, Your Honor, Jeffrey  
9 Robinson and Colette Tvedt on behalf of David Mendoza who is  
10 present.

11 THE COURT: Okay. And good afternoon, Mr.  
12 Mendoza.

13 You're here because there was an indictment that was  
14 filed in this district. This is your first appearance in  
15 this court so let me advise you that you have the right to  
16 remain silent. Anything you say can be used against you,  
17 and if you have already made a statement, you don't have to  
18 say anything else.

19 And you also are entitled to be represented by an  
20 attorney. Now if you can't afford an attorney, the Court  
21 would appoint one to represent you at no charge to you.

22 I understand you are retained, Mr. Robinson?

23 MR. ROBINSON: That is correct.

24 THE COURT: So if in the future, Mr. Mendoza, you  
25 would like the Court to consider appointing counsel, we have

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1 a financial affidavit form that we would have you fill out;  
2 we could provide the form to you.

3 When you fill it out, the Court would review it, and if  
4 you qualify, we would appoint counsel at that time.

5 So we are going to review the charges and possible  
6 penalties for you this afternoon, and then you will have an  
7 opportunity to enter a plea to those charges.

8 I do need you to state your full name, though, please,  
9 for the record, would you do that?

10 THE DEFENDANT: Yes, David Ronald Mendoza.

11 THE COURT: And what year were you born? I just  
12 need the year.

13 THE DEFENDANT: 1964.

14 THE COURT: Okay.

15 Do you waive formal reading, Mr. Robinson?

16 MR. ROBINSON: We do, Your Honor.

17 THE COURT: Let us review the charges and the  
18 possible penalties.

19 MS. ROE: Thank you, Your Honor.

20 In Counts 1 and 2, Mr. Mendoza is charged with  
21 conspiracy.

22 Count 1 is a five year conspiracy, continuing through  
23 August 17, 2006; that he knowingly and intentionally  
24 conspired with others to import from Canada into the United  
25 States marijuana.

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1                   The allegation is that it involved 1000 kilograms or  
2 more of marijuana.

3                   Count 2 is a conspiracy to possess the marijuana  
4 onboard arriving aircraft with the time being alleged during  
5 June 1, 2005, through August 17, 2006, within this district  
6 and elsewhere, Mr. Mendoza knowingly and intentionally  
7 conspired to possess onboard arriving aircraft in the United  
8 States, without any part of the official manifest,  
9 marijuana.

10                  This allegation is also 1000 kilograms or more of  
11 marijuana.

12                  Counts 3, 4 and 5 are all charges of possession of  
13 marijuana onboard arriving aircraft.

14                  Count 3 alleges that on August 4, 2005, within this  
15 district, he possessed and aided and abetted the possession  
16 of marijuana onboard an aircraft arriving in the United  
17 States, without it being part of the official cargo or  
18 manifest.

19                  That allegation is 100 kilograms or more.

20                  Count 4 is the same type of charge which is alleged to  
21 have occurred on February 7, 2006, within this district.

22                  That allegation is 100 kilograms or more.

23                  And count 5 is alleged during the time period from June  
24 1 through August 17, 2006, within this district and  
25 elsewhere; again that he possessed and aided and abetted the

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1 possession of marijuana onboard an arriving aircraft -- also  
2 alleged 100 kilograms or more.

3 There was a notice of forfeiture alleged as to the five  
4 drug counts.

5 Count 6 is a conspiracy to engage in money laundering  
6 alleged to have occurred at the time five years leading up  
7 through and continuing through March 2, 2007; that he and  
8 others in this district knowingly and intentionally  
9 conspired to conduct transactions affecting interstate  
10 commerce involving proceeds of his marijuana importation,  
11 the conspiracies and the marijuana loads on the incoming  
12 aircraft -- with the intent of promoting the carrying on of  
13 the unlawful activities, knowing that the transactions were  
14 designed in whole or in part to disguise the nature,  
15 location, source, ownership or control of the proceeds, and  
16 to avoid transaction reporting requirements under state and  
17 federal law, and that he transmitted, transferred or  
18 attempted to do so, monetary instruments or funds from a  
19 place inside the United States to a place outside the United  
20 States for the same purposes and involving the same  
21 proceeds.

22 Count 7 will not be prosecuted as the terms of the  
23 extradition from Spain were not allowed for count 7.

24 There is also a notice of criminal forfeiture alleged  
25 as to count 6.

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1                   The statutory provisions for punishment on counts 1 and  
2, since there has been a notice of information of prior  
3 drug convictions, which increases the mandatory minimums, on  
4 counts 1 and 2 Mr. Mendoza faces 20 years to life of  
5 possible statutory; a fine of up to \$8 million; 10 years of  
6 supervised release and a \$100 assessment.

7                   On counts 3, 4, and 5, he faces a minimum mandatory of  
8 10 years, up to life; fines of up to \$4 million; eight years  
9 of supervised release and a \$100 assessment.

10                  On count 6, the conspiracy to engage in money  
11 laundering, he faces up to 20 years in prison, a \$250,000  
12 fine, or twice the sum of the laundered funds, whichever is  
13 greater, three years of supervised release, and the \$100  
14 assessment.

15                  THE COURT: So do you understand the charges in  
16 counts 1 through 6, Mr. Mendoza?

17                  THE DEFENDANT: Yes, I do.

18                  THE COURT: And is your client prepared to enter a  
19 plea, Mr. Robinson?

20                  MR. ROBINSON: Your Honor, we would ask the Court  
21 to enter pleas of not guilty to the charges 1 through 6.

22                  THE COURT: Pleas of not guilty are entered to  
23 counts 1 through 6. And a trial date?

24                  THE CLERK: Trial is set before Judge Zilly on  
25 June 29 at 9 AM. Pretrial motions will be due May 26.

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1                   THE COURT: Do you request formal discovery, Mr.  
2 Robinson?

3                   THE DEFENDANT: We do under rule 16, Your Honor.  
4 Thank you.

5                   THE COURT: And the government has moved to detain  
6 Mr. Mendoza, indicating that they are ready to proceed  
7 today.

8                   Would you like more time, Mr. Robinson?

9                   MR. ROBINSON: I would like more time, but what I  
10 really want to indicate to the Court is that we are not  
11 contesting detention.

12                  THE COURT: Okay.

13                  MR. ROBINSON: So we don't have any problem with  
14 the Court entering an order of detention today.

15                  THE COURT: At this time?

16                  MR. ROBINSON: If we come up with information that  
17 would -- that we believe would convince the Court that some  
18 other resolution is appropriate, we will come back before  
19 you at that time --

20                  THE COURT: All right.

21                  MR. ROBINSON: -- but at this point, I think  
22 detention is appropriate.

23                  THE COURT: Okay.

24                  Well, we will enter an order to that effect.

25                  All right, I think that is it. Mr. Mendoza is all set.

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1 Thank you.

2 MR. ROBINSON: Your Honor, may I say for the  
3 record -- I'm sorry?

4 THE COURT: Yeah, go ahead.

5 MR. ROBINSON: One of the deputy marshals gave me  
6 two documents; one is a document from the Ministry of  
7 Interior of Spain and one is a letter to Mr. Clifton Johnson  
8 on US Department of Justice stationery.

9 I just wanted to indicate for the record that these  
10 documents have been given to me and that Mr. Mendoza -- that  
11 I have Mr. Mendoza's permission to take these documents.

12 The marshals were concerned if they were his; I just  
13 wanted to make sure that it was okay with --

14 THE COURT: Is that all right with you, Mr.  
15 Mendoza?

16 THE DEFENDANT: That's fine.

17 THE COURT: All right. Very good.

18 MR. ROBINSON: Thank you.

19 THE COURT: Thank you.

20 MS. ROE: Thank you, Your Honor.

21 THE COURT: And Mr. Butterfield is next.

22 (End of proceedings for 5/4/2009)

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1 CERTIFICATE

2 I certify that the foregoing is a correct transcript from the  
3 electronic sound recording of the proceedings in the above-  
4 entitled matter.

5 /Brian J. Killgore/

July 14, 2010

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